

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

SAUL DORTA-HERNANDEZ,

Defendant.

21-cr-640 (PKC)

ORDER

CASTEL, Senior District Judge:

On April 12, 2023, defendant was sentenced principally to a term of imprisonment of 152 months. (Minute Entry; ECF 143.)

Defendant moved for a sentence reduction (ECF 161) pursuant to Amendment 821 to the Sentencing Guidelines which went into effect on November 1, 2023 and applies retroactively.

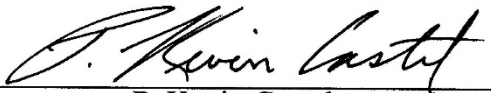
The United States Probation Department has issued a Supplemental Presentence Investigation Report indicating that defendant is not eligible for a sentence reduction. (ECF 162.)

Defendant is not eligible for a “Zero-Points Offender” reduction because he did not have zero criminal history points. Defendant is eligible to receive a “Status Points” adjustment because he received an enhancement for committing the instant offense while under a criminal justice sentence. Prior to the enhancement for committing the offense under a criminal justice sentence, defendant had 4 criminal history points. Under Guidelines § 4A1.1(e), no criminal history points are added, and thus he has 4 criminal history points rather than the 6 points he had at the original time of sentence. But a defendant with 4, 5, or 6 criminal history

points remains in Criminal History Category III, the category he was in at the original time of sentence. Thus, his Guidelines range remains unchanged and he is not entitled to a reduction. Also, his sentence of principally 152 months imprisonment was below the Original Guidelines range and is below the Amended Guidelines range, both of which are 168-210 months' imprisonment. This also means he is not entitled to a reduction.

It is hereby ORDERED that the defendant is ineligible for a sentence reduction under Amendment 821 and the motion (ECF 161) is DENIED.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: April 24, 2024
New York, New York

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